



TO: All DWD Managers and Supervisors

FROM: Leslie G. Fatum, General Counsel

DATE: April 30, 2003

SUBJECT: DWD Policy 2002-48
Access to Public Records Policy

Frank O'Bannon, Governor
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PURPOSE: To ensure that all public records of the Indiana Department of Workforce Development are properly disclosed pursuant to the State's Access to Public Records Law and that confidential records are protected. This policy does not rescind or replace any previously issued policy on disclosure of confidential records.

RECISSION: DWD Communication # 97-19/February 19, 1998

CONTENT: All public records of the Department must be available for public inspection upon request, with the exception of the records described in the "EXCEPTIONS TO DISCLOSURE" section below.

This policy ONLY applies to records already in existence. No DWD employee is required to create new records – such as compiling a list that was not produced in the regular course of business – to fulfill a request from the public.

A. How to Handle a Request for Information:

1. All requests to inspect public records must be in writing, preferably on the form (SF # 48754) provided by DWD. The request must contain the following information:
 - a. The name and address of the requester.
 - b. A description of the record(s) being requested. The description must be sufficient to identify the record(s) being requested, but does not have to specify the title of a specific document.
 - c. How the requester would like to inspect the record(s), e.g., having copies provided or personal inspection.
 - d. The date and exact time the request is received by DWD.

If a request is made by phone or in person the requester should be informed of the need to submit a written request. A fax or E-mail should be considered as a written request for the purposes of this policy.

2. If the person requesting the information is physically present in the office during regular business hours, the department's response must be made within twenty-four (24) hours.

3. If the request is received by e-mail, regular mail or fax, the department's response must be made within seven (7) days of the date the department received the fax.
4. The department's response will be one of the following:
 - a. Providing the requested information while the requester waits.
 - b. Stating yes, you may have the requested information, but we need five (5) working days to fill the request.
 - c. A denial of the request and explanation of the denial.
5. If the request is made initially via e-mail, regular mail, facsimile, or is a request initially made in person and denied, then renewed in writing, the department's denial must be in writing and include the following:
 - a. A statement of the specific exemption or exemptions under the Access To Public Records Law (IC 5-14-3-4) and applicable DWD federal and/or statutory law authorizing the withholding of all or part of the public record; and
 - b. The name and title or position of the person responsible for the denial.
6. If the requested information is readily available and not too voluminous, it should be provided while the requester waits. Providing the requested information includes making copies of the information, allowing the requester to make copies of the information on one of the department's copying machines, or allowing the requester to look through and make notes from the information.
7. A response from the department which asks for more time to process the request should specify the exact amount of time needed and a brief explanation for the delay. All extensions of time must be reasonable.

B. COST OF COPIES

The copying fee for one single-sided page of a standard-sized document is fifteen cents (\$.15). The copying costs for non-standard-sized documents and other extraordinary copying requests (i.e. certifying or faxing the copies) shall be determined by a fee schedule based on the actual cost of the copying. No charge should be assessed for the electronic (e-mail) transfer of a document.

The requestor must pay any copying fees before receiving the record(s).

Copying fees may be waived under certain circumstances, such as if the information can be considered as primarily benefiting the general public or if the material requested is a publication or form of the Department of Workforce Development. Whether a fee can be waived should be decided on a case by case basis.

C. EXCEPTIONS TO DISCLOSURE

The following records of DWD are exempt from disclosure:

1. The department's records relating to the unemployment tax and the payment of benefits are confidential, pursuant to IC 22-4-19-6. All requests for this type of information should be referred to Legal Support immediately.
2. Any records declared confidential by federal law.
3. Records containing trade secrets.
4. The work product of an attorney representing DWD or the State of Indiana.
5. Test questions, scoring keys and other examination data or materials used in administering tests for employment.
6. Test scores of an individual identified by name, unless the named individual has consented in writing to the release of this information.
7. Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with DWD, that are expressions of opinion or are of a speculative nature, and are communicated for the purpose of decision making.
8. Diaries, journals or other personal notes serving as the functional equivalent of a diary or journal.
9. Personnel files of DWD employees and applicants for employment with DWD, except for:
 - a. The name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of DWD;
 - b. Information relating to the status of any formal charges against the employee; and
 - c. Information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

All personnel file information requests must be submitted to Legal Support, and all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to the disclosure of personnel information generally on all employees or for groups of employees where the request is not particularized by employee name.

10. Administrative or technical information that would jeopardize a recordkeeping or security system.
11. Computer programs, computer codes or computer filing systems, and other software that are owned by DWD or entrusted to it.
12. Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1 (Open Door Law). However, this subdivision does not apply to personnel file information required to be disclosed under subdivision C(9).

The above list is not exhaustive. If there is any question as to whether information should be disclosed, contact Legal Support immediately.

D. PUBLIC RECORDS THAT CAN BE DISCLOSED UPON REQUEST

1. All finalized Grants
2. All finalized State contracts
3. All finalized Reports and Summaries of DWD business
4. Monthly listings of Plant Closures and/or Mass Layoffs (including WARN Notices)
5. TAA and NAFTA/TAA Certifications
6. All surveys and statistical information done in summarized (non-particularized as to identity) form
7. Lists of Indiana employers having federal contracts
8. Final Workforce Investment Area Monitoring Reports
9. A finalized copy of the State Plan
10. Annual Civil Rights Reports

The above list is not exhaustive. As a general rule, if a record contains individual information about a person or employer, or if the information is only in a draft form, do not release it without checking with Legal Support.

Questions regarding this policy and its procedures should be addressed to Leslie G. Fatum, General Counsel, via e-mail (lfatum@dwd.state.in.us) or by phone at (317) 232-0197.

EFFECTIVE DATE: Immediately

REVIEW DATE: April 30, 2005

OWNERSHIP: Legal Support

ACTION: All Managers and Supervisors must ensure that these procedures are disseminated to all staff, including those located in non-DWD-leased-or-owned facilities, and that any requests for public records should follow this policy.